

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**SERVICE LLOYDS INSURANCE
COMPANY**

Plaintiff,
v.

**NORTH AMERICAN RISK SERVICES,
INC.**

Defendant.

§
§
§
§
§
§
§
§
§

CIVIL ACTION 1:19-cv-518

TRAVIS COUNTY, TEXAS

DEFENDANT'S NOTICE OF REMOVAL

Defendant NORTH AMERICAN RISK SERVICES, INC. ("Defendant"), by and through its attorneys, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removes the action captioned *Service Lloyds Insurance Company v. North American Risk Services, Inc.* (the "Action") from the 419th Judicial District Court of Travis County, Texas to the United States District Court for the Western District of Texas.

This is a civil action over which this Court has original subject matter jurisdiction under 28 U.S.C. § 1332(a), in that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and the Action is between citizens of different states. In support thereof, Defendant states as follows:

1. Pursuant to 28 U.S.C. § 1446(a) and Fed. R. Civ. P. 81, copies of all process, pleadings, and papers on file in state court and served upon Defendant are attached to this Notice of Removal.

NOTICE OF REMOVAL IS TIMELY

2. On or about April 9, 2019, Plaintiff filed an Original Petition (the “Petition”) against Defendant in the 419th Judicial District Court of Travis County, Texas. A copy of Plaintiff’s Original Petition is attached as Exhibit “A”.

3. Defendant received the Petition on or about April 18, 2019, when the Petition was delivered by process server to Defendant’s designated agent, Corporation Service Company, for service of process.

4. This Notice of Removal was filed within: (1) one year of the filing of the Action; and (2) within 30 days of Corporation Service Company’s receipt of the Petition under F. R. Civ. P. 6(a)(1)(C). Therefore, this removal action is timely.

DIVERSITY JURISDICTION EXISTS

5. This Court has original jurisdiction of this Action pursuant to 28 U.S.C. § 1332(a), in that there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

A. There is Diversity of Citizenship

6. Plaintiff Service Lloyds Insurance Company is a Texas licensed insurance company with its home office in Travis County, and, for the purposes of diversity jurisdiction, is a citizen of Texas.

7. Defendant North American Risk Services, Inc. is a for-profit corporation authorized to do business in Texas, and, for the purposes of diversity jurisdiction, is a citizen of Florida. 28 U.S.C. § 1332(c)(1); *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 130 S. Ct. 1181, 175 L. Ed. 2d 1029 (2010) (holding that for diversity purposes, the citizenship of a corporation is

measured by the state in which it is incorporated and the state of its principle place of business, which is the state in which the corporation's nerve center is located).

8. Plaintiff is a diverse citizen from Defendant.

B. The Amount in Controversy has Been Met.

9. Plaintiff alleges that it seeks monetary relief over \$100,000. Plaintiff's Petition - Exhibit A ¶ 2.

10. Without making a determination of the merit of any of Plaintiff's allegations nor conceding the same, the amount in controversy is greater than \$75,000.00, exclusive of interest and costs as required for diversity jurisdiction.

II. REMOVAL TO THIS DISTRICT IS PROPER

11. Removal venue exists in the United States District Court for the Western District of Texas, and is proper in this Court, because the Court in which the Action was originally filed (419th Judicial District Court of Travis County, Texas) is within the jurisdiction of the United States District Court for the Western District of Texas. 28 U.S.C. § 1441(a).

12. The undersigned certifies that copies of this Notice of Removal and attachments have been served on counsel for Plaintiff.

13. A Notice of Filing of this Notice of Removal will be filed in the Clerk's Office of the 419th Judicial District Court of Travis County, Texas.

14. Defendant has tendered the filing fee required by the Clerk of the United States District Court for the Western District of Texas, along with this Notice of Removal.

15. Defendant reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendant NORTH AMERICAN RISK SERVICES, INC. removes the Action from the 419th Judicial District Court of Travis County, Texas to the United States District Court for the Western District of Texas.

Respectfully submitted,

**WINGET, SPADAFORA &
SCHWARTZBERG, LLP**

By: /s/ Martin S. Schexnayder
Martin S. Schexnayder
State Bar No. 17745610
Federal Bar No 15146
Schexnayder.M@wssllp.com

**ATTORNEY IN CHARGE FOR DEFENDANT
NORTH AMERICAN RISK SERVICES, INC.**

OF COUNSEL:

WINGET, SPADAFORA & SCHWARTZBERG, LLP

Two Riverway, Suite 725
Houston, Texas 77056
Telephone: 713-343-9200
Facsimile: 713-343-9201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument has been duly and properly served upon all counsel herein in accordance with the Texas Rules of Civil Procedure, on this the 14th day of May, 2019.

Anthony Icenogle
State Bar No. 10382948
ICENOGLE & BOGGINS, P.L.L.C.
6805 N. Capital of Texas Hwy., Ste. 220
Austin, Texas 78731
Telephone: (512) 342-9519
Facsimile: (512) 342-9555
Anthony@icenoglefirm.com

**COUNSEL FOR PLAINTIFF
SERVICE LLOYDS INSURANCE
COMPANY**

/s/ Martin S. Schexnayder
Martin S. Schexnayder